IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 16146 of 1995

Between:

Kadiyala Peravadhanulu, S/o. Satya Seetharamavadhanulu,
R/o. at Podagatlapalli, East Godavari District.

..... PETITIONER

AND

1 Chelluboyina Venkataswamy, S/o. Venkataswamy,
R/o. at Gudimillanka, Razole Taluk,
East Godavari District.
2 The District Judge,
East Godavari Dist Rajahmundry.
3 The Principal District Munsif (SpecialOfficer Under the Andhra Tenancy Act)
Rozole, E.G.Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records relating to and leading to the order of the 2nd respondent in ATA No. 58/89 on his file reversing the order of the 3rd respondent in ATC No. 50 of 85 on his file and quash the same by the issue of a Writ of Certiorari or other appropriate Writ under Art. 226 of the Constitution of India

Counsel for the Petitioner: MR.M.S.R.SUBRAHMANYAM

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

ORAL ORDER:

Reversing the order of the 3rd respondent in ATC No. 5 of 1985 by an order dated 20-1-1994 by the 2nd respondent in ATA No. 58 of 1989 is under challenge in this writ petition.

Petitioner asserts in his writ petition that the 1st respondent herein filed ATC No. 5 of 1985 on the file of the 3rd respondent, claiming tenancy right over the schedule property and also for a relief of injunction, which was dismissed. The matter was carried in appeal to the 2nd respondent where it was allowed and consequently the order of the 3rd respondent was set aside. Assailing the finding given by the 2nd respondent, the petitioner filed this writ petition.

Heard the learned counsel for the parties. Perused the material placed before me.

Learned counsel for the petitioner submitted that even though the primary authority, basing on the documentary evidence, held that the 1st respondent was not entitled to the relief sought for, since he had surrendered the land to the petitioner, the appellate authority gave a categorical finding that the said surrender cannot be acted upon since it is contrary to Section 14 of the Tenancy Act, but the procedure prescribed under Section 14 of the Act was only for the benefit of the tenant and that the tenant could always waive his right

to the procedure under the Act and in such a case, the surrender could not be held to be not a valid surrender.

However, the material placed before me does not show that the petitioner herein had followed the procedure contemplated under Section 14 of the Act because the petitioner herein has to seek acceptance of the Special Officer under Section 14 of the said Act. Therefore, in the absence of any such material, the writ petition is devoid of any merit and is liable to be dismissed.

In the result, the writ petition is dismissed. No costs.

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kvsn 03-02-2005

To

1 The District Judge,
East Godavari Dist Rajahmundry.
2 The Principal District Munsif (SpecialOfficer Under the Andhra Tenancy Act)
Rozole, E.G.Dist.

3 Two copies to the GP for revenue, High Court buildings, Hyderabad.

4 Two CD copies.